



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21-93; DA 23-669; FR ID 164624]

Establishing Emergency Connectivity Fund to Close the Homework Gap

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) grants a petition for limited waiver of the Emergency Connectivity Fund (ECF) program's invoice filing deadline submitted by T-Mobile USA, Inc. (T-Mobile). The Bureau waives the Federal Communications Commission's (Commission) rules to provide an automatic, one-time extension of the invoicing filing deadline to October 30, 2023, for any funding requests with an invoice filing deadline date occurring before October 30, 2023. The Bureau finds that a one-time extension of the invoice filing deadline for applicants and service providers will provide them with sufficient flexibility to complete and submit their invoicing forms and necessary supporting documentation to the Universal Service Administrative Company (USAC) and the Bureau directs USAC to provide an automatic, one-time extension of the invoice filing deadline to October 30, 2023, for any funding requests with an invoice filing deadline occurring before October 30, 2023.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Molly O'Connor, Wireline Competition Bureau, (202) 418-7400 or by email at Molly.OConor@fcc.gov. The Commission asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Bureau's In the Matter of Request for Waiver by T-Mobile USA, Inc., Establishing Emergency Connectivity Fund to Close the Homework Gap, Order in WC Docket No. 21-93; DA 23-669, adopted August 14, 2023, and released August 14, 2023 (Order). The full text of this document is available at the following Internet address:

I. INTRODUCTION

1. In the Order, the Bureau grants a petition for limited waiver of the Emergency Connectivity Fund (ECF) program's invoice filing deadline submitted by T-Mobile USA, Inc. Specifically, the Bureau waives § 54.1711(d) of the Commission's rules to provide an automatic, one-time extension of the invoicing filing deadline to October 30, 2023 for any funding requests with an invoice filing deadline date occurring before October 30, 2023. The Bureau recognizes that many participants with a service delivery deadline of June 30, 2023, or a service delivery deadline that occurs shortly thereafter as a result of the Bureau's *May 2023 Service Delivery Deadline Extension Order*, In the Matter of Establishing Emergency Connectivity Fund to Close the Homework Gap, WC Docket No. 21-93, Order, rel. May 12, 2023, DA 23-405, 88 FR 36510 (June 5, 2023), may require additional time to complete the invoicing process for eligible equipment and services that have already been delivered and provided to students, school staff, and library patrons with unmet needs. The Bureau finds that a one-time extension of the invoice filing deadline for applicants and service providers with an invoice filing deadline that falls before October 30, 2023 (Affected Participants), will provide them with sufficient flexibility to complete and submit their invoicing forms and necessary supporting documentation to USAC, the Administrator of the ECF program, in order to receive their committed funding. Accordingly, the Bureau directs USAC to provide an automatic, one-time extension of the invoice filing deadline to October 30, 2023 for any funding requests with an invoice filing deadline occurring before October 30, 2023, and the Bureau modifies § 54.1711(d) of the Commission's rules to provide 60 days to submit invoices from the date of the notification by USAC that a refund request is processed by USAC.

II. DISCUSSION

2. Generally, the Commission's rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

3. To ensure ECF program participants can seek reimbursement for all of their approved ECF funding used to connect students, school staff, and library patrons with unmet needs, the Bureau finds

good cause exists to waive and extend the invoice filing deadline until October 30, 2023, for applicants and service providers with invoice filing deadlines occurring before that date. In addition, the Bureau also modifies § 54.1711(d) of the Commission's rules to allow invoices to be submitted within 60 days from the date that USAC issues a notification that a refund request submitted by an ECF participant has been processed. In particular, the Bureau recognizes that due to the evolving and emergent nature of this program, complexities in the invoicing process, and the impact of recent service delivery deadline extensions provided by the Bureau, some program participants may have difficulty timely submitting invoices by their current invoice filing deadlines that fall before October 30, 2023, despite every attempt to comply with the program's rules. The Bureau also understands that at times, ECF funds must be returned (e.g., to correct entity information) and USAC must process the refund request first, before the party is able to submit a corrected invoice for a funding request. Furthermore, although the Commission leveraged existing E-Rate processes and forms in the ECF program, including invoicing, the Bureau understands that the ECF program has a shorter invoice filing period than the E-Rate program and that this is the first time some applicants and service providers are submitting invoices using USAC's system, the ECF Portal, altogether. The Bureau also acknowledges the coinciding timing of the invoicing process for Affected Participants with many schools' summer vacations and start of the school year. Taken together, the Bureau finds that such factors have contributed to the need for additional time to file invoices and present compelling and unique circumstances that merit a waiver and modification of § 54.1711(d) of the Commission's rules.

4. Moreover, The Bureau finds that a waiver and modification of § 54.1711(d) will not lead to any undue advantage in funding as the Affected Participants will not receive more funding than allowed under the ECF program rules, and their equipment and services have already been received and delivered. In addition, the Bureau finds that the public interest would not be served were these otherwise eligible ECF participants to lose ECF funding for eligible equipment and services needed to connect students, school staff, and library patrons with unmet needs who otherwise are not able to fully engage in remote learning because of their inability to submit invoices by their current invoice filing deadline or because of the delay in the processing of their refund request. Thus, the Bureau finds that providing an automatic, one-time extension of the invoice filing deadline to October 30, 2023, for Affected Participants and a

modification of § 54.1711(d) to account for the processing of refund requests strikes the right balance between the need for efficient administration of the ECF program and allowing applicants and service providers adequate time to receive their approved and committed ECF funding pursuant to the Commission's rules. The Bureau therefore grants T-Mobile's request for limited waiver and modification of § 54.1711(d) of the Commission's rules, and direct USAC to provide Affected Participants with an automatic, one-time extension to submit their invoices to USAC no later than October 30, 2023.

5. In granting the requested relief, the Bureau emphasizes that the Order does not extend ECF program participants' service delivery deadlines, nor does it alter the obligation of participants to comply with the other program requirements set out in the Commission's rules, including their obligation to certify to receipt of eligible equipment and/or services and that they are not willfully or knowingly requesting reimbursement for equipment or services that are not being used on their ECF FCC Forms 472 and 474 (i.e., the requests for reimbursement). As such, the Bureau reminds applicants that all eligible equipment and services, including funding requests for special construction, must be delivered by their service delivery date. The Bureau also reminds applicants that, unlike E-Rate program rules, ECF program rules do not permit any invoice filing extensions. For this reason, any ECF program participant that requires additional time to submit their requests for reimbursement beyond the relief granted herein must file a request for waiver directly with the Commission and demonstrate good cause.

6. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

7. The Bureau also modifies § 54.1711(d) of the Commission's rules to reflect the updated invoice filing deadline rule adopted herein. The Bureau makes this change without notice and comment in accordance with the exception to the Administrative Procedure Act (APA) for procedural rules. The updated rule will become effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

8. The Commission will not send a copy of the Order to Congress and the Government

Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rule is a rule of agency organization, procedure, or practice that does not “substantially affect the rights or obligations of non-agency parties.”

9. Finally, waiving the invoice filing deadline does not increase the risk of waste, fraud, or abuse. The Bureau emphasizes that the Commission is committed to protecting the integrity of the ECF program and ensuring that funds disbursed through the program are used for their intended purposes to provide broadband connectivity and connected devices to students, school staff, and library patrons with unmet needs. Although the Bureau grants a limited waiver of the Commission’s invoice filing deadline for certain ECF funding requests, this action does not affect the authority of the Commission or USAC to conduct audits or investigations to determine compliance with ECF program rules and requirements. The Commission is also required to recover funds determined to be disbursed in violation of statutory and/or rule requirements.

III. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151-154 and 254, and §§ 0.91, 0.291, and 1.3 of the Commission’s rules, 47 CFR 0.91, 0.291, and 1.3, that § 54.1711(d) of the Commission’s rules, 47 CFR 54.1711(d), IS WAIVED and AMENDED to the extent provided herein.

11. IT IS FURTHER ORDERED, that pursuant to § 1.102(b)(1) of the Commission’s rules, 47 CFR 1.102(b)(1), the Order SHALL BE EFFECTIVE upon release.

12. The amended rule adopted in the Order constitutes a rule of agency organization, procedure and practice and is not subject to the Administrative Procedure Act requirements. Accordingly, this amended rule is EFFECTIVE **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone,

Virgin Islands.

Federal Communications Commission.

Jodie Griffin,
Chief, Telecommunications Access Policy Division,
Wireline Competition Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

2. Revise § 54.1711(d) to read as follows:

§ 54.1711 Emergency Connectivity Fund requests for reimbursement.

* * * * *

(d) *Invoice filing deadline.* Invoices must be submitted to the Administrator within 60 days from the date of a funding commitment decision letter; a revised funding commitment decision letter approving a post-commitment change or a successful appeal of a previously denied or reduced funding; notification by the Administrator of a processed returned funds (or refund) request; or service delivery date, whichever is later.

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[FR Doc. 2023-18464 Filed: 8/25/2023 8:45 am; Publication Date: 8/28/2023]